

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

RANDY TINCHER,

Petitioner,

v.

Case Number 08-14078

Honorable Thomas L. Ludington

BLAINE C. LAFLER,

Respondent.

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**ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION OF THE  
COURT'S ORDER DENYING A CERTIFICATE OF APPEALABILITY AND DENYING  
PETITIONER'S APPLICATION TO PROCEED IN FORMA PAUPERIS ON APPEAL**

On June 14, 2011, the Court issued an opinion and order denying Petitioner's application for a writ of habeas corpus. Under Rule 11 of the Rules Governing § 2254 Proceedings, the Court "must issue or deny a certificate of appealability when it enters a final order." Accordingly, in the opinion and order dismissing the petition, the Court concluded: "It is further **ORDERED** that a certificate of appealability is **DENIED** because reasonable jurists would not debate the Court's assessment of Petitioner's claims nor conclude that the claims deserve encouragement to proceed further. *Slack v. McDaniel*, 529 U.S. 473, 483-84 (2000)."

On July 11, 2011, Petitioner filed a motion requesting that the Court reconsider its decision and grant a certificate of appealability on the first and second claims presented in his petition.<sup>1</sup> A

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<sup>1</sup> Under the Eastern District of Michigan's Local Rules, motions for reconsideration must be filed "within 14 days after entry of the judgment or order." E.D. Mich. L.R. 7.1(h)(1). Accordingly, Petitioner's motion is untimely. Moreover, neither Petitioner nor his attorney of record signed the motion as Rule 11 requires. *See* Fed. R. Civ. P. 11(a). Nevertheless, the Court will not strike the motion because it is frivolous and requiring a signed motion to be refiled would be a waste of resources.

motion for reconsideration will only be granted if it demonstrates both a “palpable defect by which the court and the parties were misled” and that “correcting the defect will result in a different disposition of the case.” E.D. Mich. L.R. 7.1(h)(3). Petitioner’s motion does not meet either of those requirements. As a result, it will be denied.

Petitioner has also filed an application to proceed in forma pauperis on appeal. The application is not signed, as required by Rule 11. Fed. R. Civ. P. 11(a). Moreover, it does not include the required affidavit or documentation of Petitioner’s financial wherewithal. Fed. R. App. P. 24(a). Because Petitioner is currently represented by retained counsel and the application does not include the required affidavit, the application will be denied.

Accordingly, it is **ORDERED** that Petitioner’s motion for reconsideration of the Court’s order denying a certificate of appealability [Dkt. # 12] is **DENIED**.

It is further **ORDERED** that Petitioner’s application to proceed in forma pauperis on appeal [Dkt. # 14] is **DENIED**.

s/Thomas L. Ludington  
THOMAS L. LUDINGTON  
United States District Judge

Dated: August 4, 2011

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 4, 2011.

s/Tracy A. Jacobs  
TRACY A. JACOBS